

SENATE BILL No. 462

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-0.5-11-1; IC 25-1.

Synopsis: Advertising by health care practitioners. Specifies certain information to be included in health care advertisements by a health care practitioner. Sets forth requirements that must be met in order for a physician to use the term "board certified".

Effective: July 1, 2015.

Miller Patricia

January 14, 2015, read first time and referred to Committee on Health & Provider Services.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 462

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-0.5-11-1, AS ADDED BY P.L.3-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1. As used in IC 25-1-9 **and IC 25-1-10**, "board"
4 means any of the entities described in this chapter.

5 SECTION 2. IC 25-1-9-4, AS AMENDED BY P.L.197-2007,
6 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2015]: Sec. 4. (a) A practitioner shall conduct the
8 practitioner's practice in accordance with the standards established by
9 the board regulating the profession in question and is subject to the
10 exercise of the disciplinary sanctions under section 9 of this chapter if,
11 after a hearing, the board finds:

12 (1) a practitioner has:
13 (A) engaged in or knowingly cooperated in fraud or material
14 deception in order to obtain a license to practice, including
15 cheating on a licensing examination;
16 (B) engaged in fraud or material deception in the course of



- 1 professional services or activities;
- 2 (C) advertised services:
- 3 (i) in a false or misleading manner; **or**
- 4 **(ii) in violation of IC 25-1-10;** or
- 5 (D) been convicted of a crime or assessed a civil penalty
- 6 involving fraudulent billing practices, including fraud under:
- 7 (i) Medicaid (42 U.S.C. 1396 et seq.);
- 8 (ii) Medicare (42 U.S.C. 1395 et seq.);
- 9 (iii) the children's health insurance program under
- 10 IC 12-17.6; or
- 11 (iv) insurance claims;
- 12 (2) a practitioner has been convicted of a crime that:
- 13 (A) has a direct bearing on the practitioner's ability to continue
- 14 to practice competently; or
- 15 (B) is harmful to the public;
- 16 (3) a practitioner has knowingly violated any state statute or rule,
- 17 or federal statute or regulation, regulating the profession in
- 18 question;
- 19 (4) a practitioner has continued to practice although the
- 20 practitioner has become unfit to practice due to:
- 21 (A) professional incompetence that:
- 22 (i) may include the undertaking of professional activities
- 23 that the practitioner is not qualified by training or experience
- 24 to undertake; and
- 25 (ii) does not include activities performed under
- 26 IC 16-21-2-9;
- 27 (B) failure to keep abreast of current professional theory or
- 28 practice;
- 29 (C) physical or mental disability; or
- 30 (D) addiction to, abuse of, or severe dependency upon alcohol
- 31 or other drugs that endanger the public by impairing a
- 32 practitioner's ability to practice safely;
- 33 (5) a practitioner has engaged in a course of lewd or immoral
- 34 conduct in connection with the delivery of services to the public;
- 35 (6) a practitioner has allowed the practitioner's name or a license
- 36 issued under this chapter to be used in connection with an
- 37 individual who renders services beyond the scope of that
- 38 individual's training, experience, or competence;
- 39 (7) a practitioner has had disciplinary action taken against the
- 40 practitioner or the practitioner's license to practice in any state or
- 41 jurisdiction on grounds similar to those under this chapter;
- 42 (8) a practitioner has diverted:



- 1 (A) a legend drug (as defined in IC 16-18-2-199); or
- 2 (B) any other drug or device issued under a drug order (as
- 3 defined in IC 16-42-19-3) for another person;
- 4 (9) a practitioner, except as otherwise provided by law, has
- 5 knowingly prescribed, sold, or administered any drug classified
- 6 as a narcotic, addicting, or dangerous drug to a habitue or addict;
- 7 (10) a practitioner has failed to comply with an order imposing a
- 8 sanction under section 9 of this chapter;
- 9 (11) a practitioner has engaged in sexual contact with a patient
- 10 under the practitioner's care or has used the practitioner-patient
- 11 relationship to solicit sexual contact with a patient under the
- 12 practitioner's care;
- 13 (12) a practitioner who is a participating provider of a health
- 14 maintenance organization has knowingly collected or attempted
- 15 to collect from a subscriber or enrollee of the health maintenance
- 16 organization any sums that are owed by the health maintenance
- 17 organization; or
- 18 (13) a practitioner has assisted another person in committing an
- 19 act that would be grounds for disciplinary sanctions under this
- 20 chapter.
- 21 (b) A practitioner who provides health care services to the
- 22 practitioner's spouse is not subject to disciplinary action under
- 23 subsection (a)(11).
- 24 (c) A certified copy of the record of disciplinary action is conclusive
- 25 evidence of the other jurisdiction's disciplinary action under subsection
- 26 (a)(7).
- 27 SECTION 3. IC 25-1-10 IS ADDED TO THE INDIANA CODE AS
- 28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 29 1, 2015]:
- 30 **Chapter 10. Advertising by Health Care Providers**
- 31 **Sec. 1. As used in this chapter, "advertisement" means any**
- 32 **printed, electronic, or oral communication or statement that names**
- 33 **a practitioner concerning the practice, profession, or institution in**
- 34 **which the practitioner is employed, volunteers, or otherwise**
- 35 **provides health care services. The term includes any of the**
- 36 **following:**
- 37 (1) A business card.
- 38 (2) Letterhead.
- 39 (3) Patient brochure.
- 40 (4) Pamphlet.
- 41 (5) Newsletter.
- 42 (6) Telephone directory.



(7) Electronic mail.

(8) Internet web site.

(9) Physician data base.

(10) Audio or video transmissions.

(11) Direct patient solicitation.

(12) Billboards.

(13) Any other communication or statement used in the course of business for the purpose of promoting services to the public.

Sec. 2. As used in this chapter, "deceptive or misleading information" means any information that falsely describes or misrepresents the profession, skills, training, expertise, education, board certification, or licensure of a practitioner.

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

Sec. 4. (a) As used in this chapter and except as provided in subsection (b), "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

(4) an intern permit; or

(5) a provisional license;

issued by the board described in IC 25-0.5-11 that is regulating the profession in question, including a certificate of registration issued under IC 25-20.

(b) The term does not include a veterinarian licensed under IC 25-38.1.

Sec. 5. (a) A practitioner who uses an advertisement for health care services that names the practitioner shall identify in the advertisement the type of license held by the practitioner and may not include in the advertisement any deceptive or misleading information. If the advertisement is in writing, information concerning licensure and board certification that is required under this chapter must be prominently displayed in the advertisement using a font size and style that makes the information readily apparent.

(b) A physician may not hold himself or herself out to the public as board certified in a particular specialty or subspecialty or state that the physician is board certified in a particular specialty or subspecialty unless:

(1) the physician discloses the full and correct name of the



- 1 certification board by which the physician is certified;
2 (2) the certification board is a member of the:
3 (A) American Board of Medical Specialties; or
4 (B) American Osteopathic Association; and
5 (3) the certification board requires for certification in a
6 particular specialty or subspecialty:
7 (A) the successful completion of a postgraduate training
8 program that has been approved by the:
9 (i) Accreditation Council for Graduate Medical
10 Education; or
11 (ii) American Osteopathic Association;
12 (B) prerequisite certification by the:
13 (i) American Board of Medical Specialties; or
14 (ii) American Osteopathic Association;
15 in a specialty or subspecialty; and
16 (C) the successful completion of an examination in the
17 specialty or subspecialty.
18 (c) A practitioner who violates any provision of this section:
19 (1) commits unprofessional conduct, a Class A infraction; and
20 (2) is subject to disciplinary action under IC 25-1-9.

